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TO RUEHJM/AMCONSUL JERUSALEM IMMEDIATE 5736

RUEHGV/USMISSION GENEVA IMMEDIATE 9299

INFO RUEHBS/USEU BRUSSELS IMMEDIATE

RUEHKO/AMEMBASSY TOKYO IMMEDIATE 0617

RUEHOT/AMEMBASSY OTTAWA IMMEDIATE 6701

RUEHBY/AMEMBASSY CANBERRA IMMEDIATE 5316

RUEHSW/AMEMBASSY BERN IMMEDIATE 6591

RUEHTV/AMEMBASSY TEL AVIV IMMEDIATE 9441

EUROPEAN POLITICAL COLLECTIVE IMMEDIATE

RUEHKV/AMEMBASSY KYIV IMMEDIATE 1720

RUEHRH/AMEMBASSY RIYADH IMMEDIATE 3465

RUEHEG/AMEMBASSY CAIRO IMMEDIATE 3297

RUEHAM/AMEMBASSY AMMAN IMMEDIATE 3365

RUEHAK/AMEMBASSY ANKARA IMMEDIATE 0199

RUEHNY/AMEMBASSY OSLO IMMEDIATE 8727

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SUBJECT: PA INTEREST IN WTO OBSERVER STATUS

Reftel: Jerusalem 1607

¶1. (SBU) Summary and Action Requested, for Tel Aviv, Jerusalem, and USTR/Geneva: Drawing on the points and background below, please respond to requests from host government and others for the U.S. position on efforts by the Palestinian Authority (PA) to secure full observer status in the General Council of the World Trade Organization (WTO) and subsidiary bodies. The request for full observer status raises a number of complex political and legal issues, including questions about PA capacity and control over external commercial relations. The USG is determined, however, to continue to seek ways to provide the PA with technical assistance and informal consultations to build the capacity and institutions necessary to support a future bid for accession. In addition, the United States would support inviting the PA to attend the upcoming WTO Ministerial as an observer.

¶2. (SBU) For USTR/Geneva only: Talking points below may be used in contacts with the PA/PLO and with other delegations when requesting their views and reporting back to Washington. Please confirm our support for extension of an invitation to the PLO to observe the upcoming Ministerial Conference and for further informal consultations that will assist the PA in its institution-building efforts. End Summary and Action Requested.

¶3. (SBU) Background: We understand that the Palestinian Authority (PA) intends to submit a request for full observer status in the WTO for consideration at the October 20-21 General Council meeting. The PA announced its request formally before the diplomatic community on September 15 in Ramallah, and PA representatives are in Geneva the week of September 21 to promote its proposal. (reftel)

¶4. (SBU) According to reftel, the PAs argument for full observer status is that (1) the Paris Protocol recognizes the PA as a separate customs territory and

grants it broad autonomy to conduct trade policy, and (2) the PA is in the process of establishing the institutions of statehood and that the process of accession to the WTO as a separate customs territory will hasten, while not presuppose, its integration into the WTO rule-based system as a state.

15. (SBU) We appreciate the PA desire to seek closer association with the WTO, and we have supported the previous participation of representatives of the PA in WTO technical assistance projects to that end. As possible, we have promoted technical assistance to the PA that prepares it for complying with WTO provisions and supports the best practices found in the global trading system. We support inviting the PA to participate as an observer to the upcoming Seventh Ministerial Conference of the WTO to be held in Geneva in late November in the same status that it attended the previous Ministerial in 2005 in Hong Kong.

16. (SBU) Full observer status in the WTO, however, is intended to prepare states and separate customs territories to initiate negotiations for WTO membership within five years of requesting observership (see paragraphs 3-4 of Annex 2 to the Rules of Procedure for Sessions of the Ministerial Conference and Meetings of the General Council, WTO Document WT/L/161). Under the Agreement Establishing the WTO, negotiations may be

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initiated only by States and separate customs territor[ies] possessing full autonomy in the conduct of its external commercial relations and other matters provided for in this Agreement and the Multilateral Trade Agreements.

17. (SBU) There currently is no state of Palestine. Therefore, according to WTO rules, in order to be capable of initiating accession negotiations and thereby be eligible for observer status, the territory represented by the PA must be a "separate customs territory possessing full autonomy in the conduct of its external commercial relations and other matters provided for in this Agreement and the Multilateral Trade Agreements." The basis for the PA trade regime, and the foundation upon which it currently operates, is Annex IV to the Gaza-Jericho Agreement (also known as the Paris Protocol). Rather than evidencing the requisite autonomy, however, the Paris Protocol appears to confirm that the territory represented by the PA lacks such autonomy. For example, full autonomy appears to be lacking in the following areas: customs tariffs and procedures for ALL goods; import licensing; standards and technical regulations; sanitary and phytosanitary measures (see Paris Protocol, paragraphs 10, 11, and 16 of Article III; paragraph 6 of Article VIII). Based on these issues it would be difficult to argue definitively that the PA is a separate customs territory. A similar conclusion was reached when the PA sought observer status in the World Customs Organization in June 2009. In addition, it is unlikely that Israel would support WTO membership or observer status for the PA at this time. We are encouraging the PA to engage in direct bilateral discussions with Israel about its accession efforts.

18. (SBU) Therefore, the PAs proposed request for full observer status appears premature on technical grounds. However, we still are developing a final policy position in response to the PAs application, which we will convey separately. The USG wishes to promote necessary economic reforms and help lay the groundwork for longer-term policy objectives that will help the PA expand its trade. In this regard, we look forward to working with the PA, the WTO Secretariat, and other WTO Members to

prepare for a closer WTO association for the PA as it develops its trade regime.

19. (SBU) SUGGESTED TALKING POINTS:

-We have had extensive interagency discussions in Washington over the past few days regarding your application for full observer status in the WTO.

-Based on our understanding of the WTO rules governing membership, I am concerned that we will not be able to give your team the support that it is seeking at this time. Further, I am not convinced that we will be ready by the General Council meeting in October.

-However, we do not want to discourage your institution-building efforts.

-We are committed to help you build your trade capacity. Instead of pursuing observership in Geneva now, we recommend that your team work closely with USTR to develop a plan for technical assistance that supports your agenda, and chart a course for future observership and application for membership that we can get behind.

-If you agree, we will help connect you with the appropriate experts at USTR. We will also be able to support your request for observer status at the

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WTO Ministerial Conference November 30 -December 2.

End Suggested Talking Points.  
CLINTON